

**City of Boston Conservation Commission
Public Meeting Minutes**

Boston City Hall, Hearing Room 801
Boston, Massachusetts, 02201

May 4, 2011

Commissioners Present: Charles Button –Chairman, Vivien Li, Aldo Ghirin, John Lewis

Commissioners Not Present: Jeanne McHallam, Stephen Kunian, Antonia Pollak, John Sullivan

Staff Present: Chris Busch, Executive Director

6:10 PM Presentation from the United States Department of Agriculture on the Asian Longhorned Beetle Eradication Program within Boston.

United States Department of Agriculture Staff: Clint McFarland

C. Button – Any initial staff comments

C. Busch – A public process has recently commenced to inform the general public of the application of insecticides to treat Asian Longhorned Beetles in a designated zone within Boston. This presentation is part of USDA's outreach efforts.

C. McFarland – Program Manager from USDA on Beetle Eradication Program. Survey material and informational material distributed to commissioners. Surveys have occurred and will continue to occur. Applications will start this June and be conducted over the next three years within a designated area around the infested trees at Faulkner Hospital. Comprehensive outreach program started last fall and have contacted state, local officials and now have a public process. Only go out a quarter mile with the insecticide from the area of infestation. Only have the insecticide and tree removal as the means to contend with pest. The insecticide is directly injected into the tree stem. A basal soil application will also occur at the Arboretum. The application is also subject to the MEPA process and an environmental assessment. Have an extensive environmental monitoring plan; sampling soils, water and other insects such as bees. Surveys continue through all seasons. All results of monitoring are made public. Age of infestation at Faulkner Hospital is two years, where it was fifteen out in Worcester, so hope is there is less extensive infestation.

C. Button – Have people expressed concern over toxicity?

C. McFarland – We've had public meetings last Thursday evening and Saturday morning. We know in some neighborhoods there is concern. We've heard from some local food growers and bee keepers. The insecticide was banned in Europe, however there has been no revitalization of bees in Europe. The Insecticide is still approved in U.S. by FDA. In Boston we look at susceptible trees and scope is limited in area: 92 properties with approximately; 3200 trees. Much of the application will occur after bloom out so the bees should be attracted to other plant species at time of application. Regardless, bee populations will be monitored. Work is contracted out, it is not conducted by USDA, but USDA and DCR staff will be out at time of application.

V. Li – How are the applicators trained?

C. McFarland – All applicators are licensed through the state and have done similar applications over the past seven years. There will also be supervisors present.

V. Li – What is the half life of the chemical?

C. McFarland – It breaks down readily in sunlight. On it's own it breaks down over three years. There will be no burning of leaves.

A. Ghirin – Questions regarding mapping of areas?

C. McFarland – We map out a quarter mile for application. The regulated area goes out a mile and a half, where trees that come down have to go through specific processing. 99% of studies have shown that beetle doesn't move out beyond a quarter mile from source tree.

John L. – I own a paper birch on Newbury Street, should I be concerned?

C. McFarland – We would encourage you to take a look at the tree and keep an eye on the tree for the perfectly conical holes. Chemical treatments can be done yourself, but USDA will only cover the treatment area.

Public comment – Same insecticide as used for Dutch Elm disease?

C. McFarland – No this is a more recent material.

6:45 PM Request for Determination of Applicability from Amtrak for the delineation of wetlands along its right-of-ways within the City of Boston, as part of Amtrak's Vegetation Management Plan renewal.

Owner: AMTRAK

Representatives: Kyle Fair, TEC Associates

Documents: Project plans and details as provided in the RDA

C. Button – Any initial comments from staff

C. Busch – There are exemptions under the Wetlands Protection Act for the application of herbicides to utility rights of ways. With rail right-of-ways there are no such exemptions, however, the application of herbicides is allowed if part of a Vegetation Management Plan approved by the MA Department of Agriculture Resources and the delineation of wetlands are approved by the local Conservation Commission through an RDA.

K. Fair – The application of herbicides is conducted from a boom and is a low pressure spray down onto the ballast. The maps provided indicate wetlands as zones, rather than strict delineations. Application can occur up to 10-feet of the mean high water line of a waterway. No spray zones are represented as yellow. There is a permanent marking system on the rails to indicate where spray needs to be terminated. There are no double blue protection zones within Boston, which are sensitive areas as determined by the state.

V. Li – You are based in Maine? Did your company conduct prior application requests?

K. Fair – Yes, based in Maine and have been providing the RDA's for the past 15 years.

V. Li – The proponent is not present?

K. Fair – No, I'm the representative.

V. Li – Who is supervising the application?

K. Fair – There is a contractor and I am involved with application. The railroad provides a pilot vehicle to determine zones. Maps are on the vehicle as well to field verify locations. All applicators are licensed and familiar with application procedures.

V. Li – What type of training do applicators have?

K. Fair – All are licensed by the state.

A. Ghirin – Did a wetland scientist delineate the current maps?

K. Fair – No, we've used the same maps. Delineations are from 2005 and those were done by a wetland scientist.

V. Li - Want to make sure application is done in a responsible manner by trained professionals.

K. Fair – This is a highly regulated activity by MA DAR and MA DEP.

A. Ghirin – Who drafts the VMP?

K. Fair – I draft the VMP's.

C. Busch – I have copies of the current VMP's on file, as well as the Yearly Operational Plan.

C. Button – Questions or comments from the public –

M. Wellons – Will this cover the grand junction line in Brighton?

K. Fair – That yard is covered by CSX.

C. Button – Any staff comments?

C. Busch – Typically this is handled as negative determination and an exemption. Again the regulations are deferential to MA DAR and the VMP that is devised and approved. There are no project plans as it is handled as an exemption and delineation. The Commission's job is only to verify the delineations. I have reviewed the files and maps and they are consistent with mapped wetland resource areas. All the areas within Boston are river crossings.

V. Li – We want a plan of what is done.

C. Busch – We receive a YOP already which explains work to occur this year.

V. Li – What about a plan at the end of the application period?

C. Button – Is there a motion?

V. Li – Negative Determination and YOP and a report at the end of each year's activities.

K. Fair – I object to any condition on the actual work.

C. Button – Is there a second?

J. Lewis – Second

C. Busch – We are issuing a Negative Determination so requiring additional filings runs counter to the Regulations.

C. Button – Another motion?

A. Ghirin – Motion to for a Negative Determination without conditions.

J. Lewis – Second

- **Motion made by A. Ghirin and seconded by J. Lewis to issue a Negative Determination and close the hearing (voted 3/1/0)**

7:10 PM Request for Determination of Applicability from Massachusetts Bay Transportation Authority for the delineation of wetlands along its right-of-ways within the City of Boston, as part of the MBTA's Vegetation Management Plan renewal.

Owner: Massachusetts Bay Transportation Authority

Representatives: Kyle Fair, TEC Associates

Documents: Project plans and details as provided in the RDA

C. Button – Initial comments from staff?

C. Busch – No comment.

V. Li – Is the project proponent present?

K. Fair – MBTA staff is not present.

V. Li – Again, can we get a report after the application season?

K. Fair – I would again oppose such a condition.

V. Li – Can staff ensure that project proponents are present in the future?

C. Busch – I will contact project owners in the future regarding hearings.

C. Button – The owners should be present in the future.

R. Frymier – There are comment periods for the VMP renewals, so the commission can ask for the condition as part of that process.

C. Busch – With any YOP there is a comment period as well.

K. Fair – Discusses schedule of VMP approval process, which would allow for comment through the YOP, but not the VMP process at this point.

V. Li – What if we continue the hearing on this and have Andrew Brennan address the request for a report.

K. Fair – How would this affect the commission's decision?

C. Button – Why doesn't staff draft a letter requesting the report under the YOP comment period.

C. Button – Is there a Motion?

V. Li – I move a Negative Determination with a comment letter to each of the three rail companies requesting a yearly, post herbicide application report to the Commission.

J. Lewis – Second.

- **Motion made by V. Li and seconded by J. Lewis to issue a Negative Determination and close the hearing (voted 4/0/0)**

7:25 PM Request for Determination of Applicability from Massachusetts Bay Commuter Railroad for the delineation of wetlands along its right-of-ways within the City of Boston, as part of Massachusetts Bay Commuter Railroad's Vegetation Management Plan renewal.

Owner: Massachusetts Bay Transportation Authority

Representatives: Kyle Fair, TEC Associates

Documents: Project plans and details as provided in the RDA

C. Button – Questions or comments

V. Li – Is MDCR separate from MBTA

K. Fair – Yes, MDCR is a subcontractor to the MBTA

V. Li – The letter then should be cc'd to the MBTA

V. Li – I move a Negative Determination with a comment letter to each of the three rail companies requesting a yearly, post herbicide application report to the Commission.

J. Lewis – Second

- **Motion made by V. Li and seconded by J. Lewis to issue a Negative Determination and close the hearing (voted 4/0/0)**

7:35 PM Request for Determination of Applicability from the Massachusetts Department of Conservation and Recreation for the installation of a swimming pool drain line connection to an existing sewer line at the Allston-Brighton Pool, 380 North Beacon Street, Charles River (100-foot Buffer Zone to Inland Bank).

Owner: Massachusetts Department of Conservation and Recreation

Representatives: Jim Jackson, MA DCR
Documents: Project plans and details as provided in the RDA

C. Button – At the last hearing we reviewed one of the pool water line projects. Due to a clerical error we missed reviewing an additional two water line replacement projects. The additional projects are now before the commission.
V. Li – For the record the Department of Conservation and Recreation is a dues paying member of my employer The Boston Harbor Association.
C. Button – Any initial staff comments?
C. Busch – No initial comments.
J. Jackson – Similar to the prior project. Just taking the drainage from the pool which is going to the Charles River and directing the chlorinated water to a sewer main.
C. Busch – The old line will be abandoned in place?
J. Jackson – Correct.
C. Button – Comments from public?
R. Frymier – Will all chlorinated water from the pools be going to the sewer? Can just let the water sit and chlorine will dissipate over a couple of days and discharge to river.
J. Jackson – Correct that chlorinated water does dissipate, however, MA DEP required that the water needs to go to the sewer system. All pools will discharge to the sewer line. Permit application is currently with MWRA.
V. Li – Has John Sullivan looked at this?
C. Busch – I spoke with Commissioner Sullivan and he shared some of Mr. Frymier's comments regarding need to discharge to sewer, however, he has no issues with the proposed work.
C. Button – Do we have a motion
V. Li – Motion to approve with project conditions.
J. Lewis – Second.

- **Motion made by V. Li and seconded by J. Lewis to issue a Negative Determination and close the hearing (voted 4/0/0)**

7:45 PM Request for Determination of Applicability from the Massachusetts Department of Conservation and Recreation for the installation of a swimming pool drain line connection to an existing sewer line at the Lee Memorial Wading Pool, Storrow Drive, Boston, Charles River (100-foot Buffer Zone to Inland Bank)
Owner: Massachusetts Department of Conservation and Recreation
Representatives: Jim Jackson, MA DCR
Documents: Project plans and details as provided in the RDA

V. Li - For the record the Department of Conservation and Recreation is a dues paying member of my employer The Boston Harbor Association.
C. Button – Any questions or comments on this filing?
M. Wellons – Does the MWRA treat stormwater as well?
C. Button – Currently does not and there are no local or federal regulations requiring formal treatment of stormwater.
C. Button – Do we have a motion?
V. Li – Motion to approve with project conditions.
J. Lewis – Second.

- **Motion made by V. Li and seconded by J. Lewis to issue a Negative Determination and close the hearing (voted 4/0/0)**

7:50 PM Notice of Intent from the Massachusetts Department of Transportation for the rehabilitation of the Anderson Memorial Bridge, involving structural repairs, upgrades to utilities, lighting and stormwater infrastructure, and landscape improvements, North Harvard Street, Brighton, Charles River (Bordering Land Subject to Flooding, Land Under Water, Riverfront Area, Inland Bank).
Owner: Massachusetts Department of Conservation and Recreation
Representatives: Tracey Efron, MassDOT; Nina Brown, Lisa Berry Engler, MassDOT, Staff from FST
Documents: Project plans and details as provided in the NOI

C. Button – Any initial staff comments?

C. Busch – No initial comments – I did raise some questions with MassDOT staff which should be addressed during the presentation.

V. Li – Fay Spofford and Thorndike and Browne and Rowe are dues paying members of my employer The Boston Harbor Association.

T. Efron – provided a project overview reviewing bridge location and components of bridge reconstruction and rehabilitation. Replacement will occur in accordance with historic requirements. The arches and superstructure are in good condition. Construction will occur in three primary phases. There are trees to be removed.

V. Li – How many trees to be removed.

N. Brown – Sixteen trees to be removed, most of which are volunteers. Due to limited project are we are looking to install thirteen and an additional three to get a one-to-one replacement level. Layout of proposed trees presented to the Commission.

FST Staff – Reviewed drainage system improvements for the project and restoration areas. Delineation of wetland resource areas also covered. Do not intend on removing armoring stone along the riverbank. Traffic improvements area also included in the project to facilitate vehicular and pedestrian passage.

FST Staff – Permanent impacts are associated with slope stabilization stone that needs to be installed.

C. Button – Questions and comments?

V. Li – What kind of mitigation measures will be in place?

FST Staff – There will be compost filter tubes along the bank to prevent erosion; turbidity barriers will be installed around in-water work; silt sacks for catch basins; demolition containment measures.

C. Button – What about barges?

FST Staff – Only one archway will be blocked by barges as any given time and will meet Coast Guard requirements.

V. Li – How long will the work occur?

FST Staff – Approximately a 30 month construction period.

C. Button – Questions and comments from public?

M. Wellons – Is there a separator for the catch basins?

FST Staff – All basins will be deep sump with hoods.

M. Wellons – the eastern abutment is very steep and the trees to be removed will cause the slope to slide into the river. The new plantings are going to be austere and not represent the diversity that is currently there.

N. Brown – Putting back a diversity of species – more diverse than what is there. Restoration mix is also diverse. All trees are in the Charles River Basin Master Plan.

R. Freymier – The drainage on the bridge is problematic. Catch basins have been filled causing stormwater drainage off to side of bridge creating erosion problems. There has been no maintenance to date.

C. Busch – There is an Operations and Management plan included in the draft order for the project stormwater infrastructure.

L. Berry Engler – The bridge is MassDOT's but the drainage system is still DCR's responsibility.

V. Li – How will this project comply with the Mayor's Grow Boston Greener initiative?

N. Brown – We are replacing on a 1:1 basis with native riparian species. Cambridge requires a two-to-one. Site is physically constrained so hard to get more trees in on the Boston side.

V. Li – Disappointed that MA DCR staff are not present to discuss stormwater and tree issues.

A. Ghirin – There should be 2:1 tree replacement with additional trees being outside project footprint.

C. Button – We should have an established regulation requiring 2:1 tree replacement.

V. Li – Who is paying for the trees?

T. Efron – MassDOT is paying for the trees.

C. Button – Any comments on the draft conditions?

FST Staff – Stormwater management related conditions should reference MA DCR not MassDOT, and DCR's maintenance management plan.

Ghirin – Special Condition No. 56 should include a 2:1 ratio, and a revised plan prior to construction that indicates where all the trees shall be planted.

FST Staff – Need to get Army Corps permit and design wrapped up by the end of the summer and get started soon thereafter.

C. Button – Second to motion.

J. Lewis – Second.

- **Motion made by V. Li and seconded by J. Lewis to issue a Negative Determination and close the hearing (voted 4/0/0)**

**8:45 PM Update from the Massachusetts Department of Transportation on Order of Conditions DEP File No. 006-0647, issued for the construction of a water transportation docking facility adjacent to 500 Atlantic Avenue and Russia Wharf, Fort Point Channel, Boston.
*Continued from the April 20, 2011 Public Hearing***

C. Busch – We have with us this evening Mr. Robert Aestrella of the Boston Public Works Department who manage the city’s bridges. The Commission requested at the last hearing a member of the PWD appear to discuss bridges, specifically the Northern Avenue Bridge.

R. Killian – Since the last hearing I have been meeting with the abutters in the Fort Point Channel and looking comprehensively at water transportation in the channel. What the property owners are to do is look at the proposed facility and how it will fit with all the other water transportation amenities in the area.

V. Li – Are any of the other facilities ADA compliant?

R. Killian – Independence Wharf is ADA compliant.

V. Li – The MassDOT facility would be ADA compliant and that is why it is particularly important as it would provide a connection and ADA access to other adjoining dock facilities.

B. Aestrella – The Northern Avenue bridge can open, the Moakley is fixed.

R. Killian – The concern is commuter ferry boats at high tide will not be able to access the bridge. If there 20 times a day when a vessel needs to pass?

B. Aestrella – We would open the bridge as the U.S. Coast Guard requires it. Moakley is fixed at 15.6’

C. Button – Is the bridge structurally sound now?

B. Aestrella – Yes it is, and is open 365 days a year: May through October 7 a.m. to 11 p.m., after November through May it is open 7 a.m. to 3 p.m., but will open at anytime given enough lead time.

V. Li – There is currently water transportation service that runs less than an hour. This could be accommodated. There are also architectural tours that are being conducted by boat from Russia Wharf.

B. Aestrella – Why not use ADA accessible ramps from the new T-Party Museum or at Moakley Court House.

V. Li – There is a long standing commitment to construct a facility at this location.

R. Killian – Initial plan was to provide ferry access to South Station from other locations.

V. Li – So if we get to a point where there is regularly scheduled service, the bridge tender could accommodate such service.

V. Li – Suggest Ron come back in two months after further discussions with the Fort Point Channel abutters.

- **Motion made by V. Li and seconded by J. Lewis to have another update on DEP File No. 006-0647 (voted 4/0/0)**

9:00 PM Updates and General Business:

Request for Certificate of Compliance for Order of Conditions DEP File No. 006-1188 from Port Norfolk Yacht Club for maintenance dredging and the removal and replacement of float-dock pilings, at 179-181 Walnut Street, Port Norfolk, Dorchester, Neponset River.

Commission staff notes that Cert of Compliance material has been reviewed and all permit conditions have been complied with and bathymetric survey of dredge area submitted.

- **Motion made by V. Li and seconded by J. Lewis to issue a Certificate of Compliance (voted 4/0/0)**

Motion made by C. Button and seconded by J. Lewis to adjourn the public meeting (voted 4/0/0).